

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NOTICE OF SOUTH CENTRAL BELL)	
TELEPHONE COMPANY OF AN)	
ADJUSTMENT IN ITS INTRASTATE)	CASE NO. 8847
RATES AND CHARGES)	

and

THE VOLUME USAGE MEASURED RATE)	
SERVICE AND MULTILINE SERVICE)	
TARIFF FILING OF SOUTH CENTRAL)	CASE NO. 8879
BELL TELEPHONE COMPANY)	

O R D E R

On August 12, 1983, an order was issued seeking information regarding, inter alia, investment and earnings projections by South Central Bell Telephone Company (hereinafter "SCB") for AMPS and CPE. SCB responded to the CPE request stating that providing earnings and investment projections was premature and would involve speculation. SCB's response to the request regarding AMPS stated that the information was not relevant to the subject matter of the rate case and that AMPS would not be offered by SCB in Kentucky.

By Order of September 30, 1983, the Commission scheduled a formal conference for October 10, 1983, in order to obtain adequate responses to data requests, including Items 22 and 23-B

of Staff Request No. 2, the requests which sought information about CPE and AMPS.

At the formal conference, SCB continued to refuse to provide the requested information concerning AMPS and CPE. The Commission announced from the bench that they were taking the matter under advisement.

On October 18, 1983, SCB filed a Memorandum which further explained its position as to why the information need not be filed. Therein, SCB argued that the Commission had no right to the information under KRS 278.230 since the records sought pertain to other subsidiaries of Bell South, a holding company and SCB's parent. SCB also argued that the CPE enterprise was an unregulated activity and that AMPS was only subject to regulation by the FCC. SCB further asserted that the investment and earnings prospects for those businesses would have no impact on the cost of telephone service provided by SCB, including capital costs.

Both the AMPS and CPE information requested should be provided by SCB for the following reasons:

1. AMPS, or cellular radio, has been explicitly recognized as "exchange telecommunications services" in the August 24, 1982, Modified Final Judgment ("MFJ") and as such, is subject to regulation by this Commission. The Plan of Reorganization

("POR") describes cellular radio as "a new form of two-way mobile telephone service."¹

2. The Commission currently regulates mobile telephone service under tariff. Cellular radio is clearly a public utility service within the definition of KRS 278.010(1)(e).

3. While the FCC will license the two cellular radio carriers that will be permitted to serve in a Cellular Geographic Service Area ("CGSA"), the FCC determined that "cellular service will be a basic, local exchange service fully subject to regulation by state public utilities commissions with respect to charges, classifications, practices, services, facilities or regulations for service by licensed carriers."² The FCC has further determined that the states may review investments made and expenses incurred for cellular service.³ The FCC has expressly recognized the states' need and authority to review investments and associated expenses to determine what cross-subsidization impact may result on conventional wireline telephone service.⁴

4. Other state commissions, such as New York's, have expressed their intent to exercise that jurisdiction.

¹POR, p. 385.

²Order of April 15, 1983, in FCC Docket No. 83-126 at 6.

³Id.

⁴Id.

5. SCB ratepayers have, over the years, provided funding through License Contract payments for the development of cellular radio.

6. The success or failure of the AMPS venture will impact the continued financial stability and viability of SCB.⁵ A significant cross subsidy issue is presented.




7. Even though sale of CPE is a deregulated activity since January 1, 1983, the Commission still maintains a legitimate interest in protecting SCB's ratepayers from cross-subsidizing non-regulated activity and in protecting SCB's continued financial stability as discussed above. The FCC has just recently ruled in CC-83-71 that the BOCs, including SCB, may offer CPE without forming a separate subsidiary or division for at least the first 6 months of 1984. Thereafter, a separate subsidiary or division will only be required by the FCC if the BOCs engage in the sale of business CPE. Thus, our concerns regarding cross-subsidy are not allayed by the FCC's decision. Furthermore, these interests have required the Commission to explore the consequences of other utilities' involvements with unregulated businesses in the past.

IT IS THEREFORE ORDERED that SCB should immediately comply with the August 12, 1983, Order requesting information concerning AMPS and CPE by filing same no later than December 1, 1983.

⁵ Lillienthal, Regulation of Utility Holding Companies, 29 Colum. L. Rev. 404, 431 (1929).

Done at Frankfort, Kentucky, this 28th day of November, 1983.

PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman

Commissioner

ATTEST:

Secretary